

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

STEVEN J. OLIVA,)	
)	
Plaintiff,)	
)	Civil Action No. 18-104C
v.)	Senior Judge Mary Ellen Coster Williams
)	
THE UNITED STATES)	
)	
Defendant.)	

**PLAINTIFF'S NOTICE TO THE COURT REGARDING
PENDING MOTION TO COMPEL**

Pursuant to the Court's Order for Plaintiff to provide notice regarding the status of requests for discovery made to Defendant, ECF 57, Plaintiff provides the following responses to the Court's requests.

- 1) The Court requests Plaintiff indicate which, if any, requests are now moot given Defendant's supplemental responses.**

The following discovery requests are now moot given Defendant's supplemental responses served after Plaintiff's Motion to Compel, ECF 51: (a) Requests for Admission Nos. 36 and 42; (b) Interrogatory Nos. 4, 5, 10, 11, 13, and 14. Defendant's responses to Interrogatory Nos. 1–3, 6–9, and 12 remain deficient.

- 2) The Court requests Plaintiff indicate specifically which, if any, responses to requests for production remain deficient.**

Plaintiff's Requests for Production Nos. 1–37 remain deficient. In particular, Plaintiff has not received all documents related to any candidates' applications or reference checks for candidates for either the El Paso or Greenville positions (Request Nos. 17, 20–23, 25, and 28–31). It appears that Plaintiff received some documents from certain custodians, but has not received complete productions for the majority of Defendant's custodians. Defendant's document productions continue to be jumbled in ways outlined in Plaintiff's Motion and fail to included

corresponding custodial information, despite Defendant's acquiesce to correct these issues in its response. *See* ECF 51 at 21–23; ECF 52 at 16; ECF 53 at 10. This morning, Defendant's counsel confirmed that Defendant failed to provide custodial information for their productions and claim that Defendant is collecting such information now for production. After time-intensive review of Defendant's productions, it appears that some documents may have been collected from a couple custodians; however, Plaintiff cannot confidently represent that they have received all the relevant documents from any one custodian due to the lack of metadata.

Regardless, Defendant's productions are woefully incomplete. This morning, Defendant's counsel represented that Defendant is producing 1,405 pages of documents today that were collected from five custodians: Rebecca Medved, Matthew Eitutis, Stephanie Mardon, Lynne Harbin, and Floretta Hardmon. Defendant's counsel also represented that they have collected 40 additional documents from two additional custodians, DeAnne Seekins and Peter Dancy, which Defendant's counsel is reviewing and will produce non-duplicative documents by middle of next week. It will take time for Plaintiff's counsel to load and review thousands of pages that Defendant claims will be produced today and next week in order to assess whether Defendant's productions for those custodians remain deficient. Moreover, it appears that even with Defendant's promised supplemental productions today and next week, Defendant will not have produced any documents from a number of custodians, including Tony A. Guagliardo, Joyce Deters, and Ann Case.

3) The Court requests Plaintiff attach any additional responses Defendant has provided since Plaintiff's Reply was filed on December 9, 2021.

Defendant has not served any supplemental responses since Plaintiff's Reply, ECF 53, was filed on December 9, 2021. Defendant last served supplemental responses on December 2, 2021: (a) Defendant's Supplemental Responses to Plaintiff's Interrogatory Nos. 4, 5, 6, 8, 10, 11, 12, 13,

& 14, ECF 52-1, and (b) Defendant's Supplemental Responses to Plaintiff's Request for Admission Numbers 36 & 42, ECF 52-3.

Dated: January 12, 2022

Respectfully Submitted,

/s/ Han Park

HAN PARK (attorney of record)
RICHARD L. RAINEY (of counsel)
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001
Tel: (202) 662-5117
hpark@cov.com
rrainey@cov.com

JENNIFER D. CIELUCH (of counsel)
Covington & Burling LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018
Tel: (212) 841-1261
jcieluch@cov.com

Counsel for Plaintiff Steven J. Oliva